

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

LUIS CARIBE GARCIA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civ. No. 04-1491 (PG)  
(Re: Cr. 97-245 (PG))

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**ORDER**

Before the Court is Petitioner's "Application for Certificate of Appealability" (Docket No. 25) as required under the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). Petitioner seeks to appeal this Court's decision denying his Motion to Vacate, Set Aside or Correct Sentence. (Docket No. 1.)

Under the AEDPA, no appeal may be taken from a district court's ruling on a Section 2255 motion unless a district or circuit judge issues a Certificate of Appealability ("COA") based upon a "substantial showing" by the prisoner of "the denial of a constitutional right." 28 U.S.C. § 2253(c). To succeed, a petitioner must demonstrate that the issues raised are "debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are 'adequate to deserve encouragement to proceed further.'" Barefoot v. Estelle, 463 U.S. 880, 883 n.4 (1983) (alteration in original) (internal quotations omitted). "The necessity for a substantial showing extends independently to each and every issue raised by a habeas petitioner." Berthoff v. United States, 308 F.3d 124, 127-28 (1st Cir. 2002).

Here Petitioner's arguments, which are limited to stating that the District Court's findings are debatable, fail to comply with all of these elements that must be considered by a court before issuing a COA. Petitioner is rehashing arguments already considered and denied by this Court as well as the Court of Appeals of the First Circuit. See U.S. v. Nelson-Rodriguez, 319 F.3d 12 (1st Cir. 2003). Accordingly, petitioner's Motion for a COA is **DENIED**.

**IT IS SO ORDERED.**

In San Juan, Puerto Rico, October 14, 2005.

S/JUAN M. PEREZ-GIMENEZ  
U.S. District Judge